



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7

11201 Renner Boulevard
Lenexa, Kansas 66219

MAR 21 2017

Mr. Dennis W. McKinney
Corporate Director Environmental, Health and Safety
Fortune Brands Home and Security
520 Lake Cook Road
Deerfield, Illinois 60015

RCRA



RE: Revised Remedy Implementation Plan for the Former Waterloo Industries Facility,
300 Ansborough Avenue, Waterloo, Iowa, February 8, 2017
EPA ID # IAD005277959

Dear Mr. McKinney:

The U.S. Environmental Protection Agency Region 7 has reviewed the subject document, received February 9, 2017. Because of the complexity of the approval process for this document, and a desire to support Fortune Brands beginning the fieldwork to implement this remedy as soon as possible, the EPA will approve the document in stages as the reviews of separate sections are complete.

The revised Environmental Covenant in Appendix E of the RIP cannot be approved as provided. This letter provides the EPA's comments on the EC, as follows:

1. General: Section 11 of the Iowa model covenant language, concerning submission of a groundwater hazard statement and deed notifications, is missing and must be added.
2. Section 2: The phrase "... pursuant to Section 3008(h) of the Resource Conservation and Recovery Act, 42 U.S.C 6901 et. seq." must be removed as there is no 3008(h) order in place for this facility.
3. Sections 5(c) and 18: Has a title search been completed for the property to identify other persons or entities holding legal or equitable interests? It is not clear from the revised EC whether the search has been completed. If the search has not been completed, please provide a schedule for when that will occur. If the search has been completed, the results of the search must be provided to the EPA and the revised EC must be updated to identify any such interests and whether they have been notified.
4. Section 7(b): The EPA reiterates its comment 51 on the draft RIP from its January 5, 2017, letter, which stated in part that the EPA must approve plans for non-emergency disturbance of soil. The language in this section of the revised EC provides only for notification to the EPA prior to such work, which is not adequate to ensure protection of workers and the public, proper handling of any wastes that might be generated during the work, or continued effective operation of the active remedy components and monitoring well network. While the EPA may be able to modify the language in this section somewhat to address your apparent concerns, this section must include a provision for the EPA to review, comment on, and approve plans for non-emergency work that



would disturb contaminated soil and/or the portion of the building slab that is designated as an engineered cap.

5. Section 7(d): In the last sentence of this section, the phrase "Further analysis and or response actions..." should read "Further analysis and/or response actions...".
6. Section 8: The word "possible" in this section must be replaced with the word "practicable" to be consistent with the Iowa model covenant language.
7. Section 10: This section must also explicitly grant access to the Iowa Department of Natural Resources and their authorized representatives.
8. Section 11: The sentence "Modification or termination of the terms of this covenant shall comply with the standards in IC Chapter 455I" must be added to this section to be consistent with the Iowa model covenant language.
9. Section 12: This section must also explicitly grant IDNR the power to enforce the terms of the EC.

Because of the continuing disagreement over the provisions of the activity and use limitation for maintenance of the building slab as a cap and disturbance of soil in Section 7(b), the EPA recommends that a conference call be held between the EPA, Fortune Brands, and the building owner to discuss these comments prior to submitting a revised EC. Please advise me of your and the building owner's availability for such a call during the month of April 2017. If you have any questions, please call me at (913) 551-7324.

Sincerely,



Daniel Gravatt, P.G.

Geologist

RCRA Corrective Action and Permits Section

Waste Remediation and Permitting Branch

Air and Waste Management Division

cc: Mark Seaman, ERM
Amie Davidson, IDNR